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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

**In re D.G., a Person Coming Under the
Juvenile Court Law.**

THE PEOPLE,

Plaintiff and Respondent,

v.

D.G.,

Defendant and Appellant.

A123804

**(Contra Costa County
Super. Ct. No. J07-01469)**

D.G. appeals from a contested jurisdictional hearing and dispositional order of the juvenile court. His attorney has filed a brief seeking our independent review of the record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (see *Anders v. California* (1967) 386 U.S. 738), in order to determine whether there is any arguable issue on appeal. We find no arguable issue and affirm.

I. FACTS AND PROCEDURAL HISTORY

D.G. was alleged to be a ward of the court in a petition filed under Welfare and Institutions Code section 602, which charged him with the possession of a firearm by a minor (Pen. Code, § 12101, subd. (a)(1)) and resisting arrest (Pen. Code, § 148, subd. (a)(1)). He entered no contest admissions to both counts. In August 2007, the court declared him to be a ward of the court, placed him on probation with specified

conditions (including that he submit to drug testing, refrain from using and possessing drugs, obey all laws, and report to his probation officer as directed), and ordered him to complete a six-month program at the Orin Allen Youth Rehabilitation Facility (Youth Facility).

On September 3, 2008, the probation department set a probation violation hearing, alleging that D.G. had tested positive for “THC” and methamphetamine on August 22, 2008, failed to abide by all laws on August 26, 2008, and failed to report a police contact to his probation officer as directed.

On September 5, 2008, the District Attorney’s Office filed a first supplemental petition under Welfare and Institutions Code section 602, alleging one count of fleeing or attempting to elude a police officer while driving recklessly (Veh. Code, § 2800.2, subd. (a)) and one count of resisting arrest (Pen. Code, § 148, subd. (a)(1)), both arising from an incident on August 26, 2008.

A probation violation hearing and a contested jurisdictional hearing on the first supplemental petition was held on October 14, 2008. D.G. admitted a violation of his probation, and the first supplemental petition was dismissed without prejudice.

On October 15, 2008, the District Attorney’s Office filed a second supplemental petition under Welfare and Institutions Code section 602, re-alleging one felony count of fleeing or attempting to elude a police officer while driving recklessly (Veh. Code, § 2800.2, subd. (a)) and one count of resisting arrest (Pen. Code, § 148, subd. (a)(1)) based on the incident on August 26, 2008. The matter proceeded to a contested jurisdictional hearing.

At the hearing, Antioch Police Officer Nicholas Cuevas testified that he was on duty, in uniform, and in a marked patrol vehicle at 10:52 p.m. on August 26, 2008, when he saw a maroon Toyota Supra traveling westbound on East 18th Street at approximately 45 miles per hour. Cuevas pulled behind the vehicle, which immediately slowed to 10 to 15 miles per hour. The suspect vehicle began weaving and straddled the other lane twice within a 200-foot distance, and it looked like there was movement inside the vehicle.

As he conducted a records check on the car, Officer Cuevas pulled alongside the driver to look at the car's occupants. He was about 15 to 20 feet from the driver, had a clear view of him, and observed him for five to ten seconds. At the hearing, the officer identified D.G. as the driver. There were also two passengers in the car, an African American male in the front seat and an African American in the back.

Officer Cuevas maneuvered his marked patrol car behind D.G.'s vehicle and activated his overhead emergency lights – a solid red light and flashing blue and white lights. D.G. sped off, reaching approximately 80-85 miles per hour; Cuevas turned on his siren and pursued. (Officer Cuevas checked his emergency lights and siren of his patrol car before and after his shift and confirmed that they worked.) During the pursuit, D.G. ran through at least two stop signs and two red lights, crossed over into the opposing lane of traffic, and cut off another vehicle. The chase ended when D.G. lost control of the car, spun 180 degrees, and stalled after running onto a curb.

Officer Cuevas stopped alongside D.G.'s vehicle, shined a spotlight inside the car, and again observed the driver (D.G.) and his two passengers. D.G. and the front passenger got out of the other side of their vehicle, followed by the backseat passenger, a woman. D.G. and the front passenger ran across the street and jumped over a fence, with Cuevas in pursuit. The woman headed in the other direction and was not apprehended. Cuevas was unable to catch up to D.G., but the front passenger was taken into custody. He turned out to be D.G.'s brother, S.

Officer Cuevas searched the police department's records and found a record for S., with a photograph, along with a record for D.G., also containing a photograph. As soon as he saw D.G.'s photograph, Cuevas knew D.G. was the driver of the car. Cuevas obtained an address from S. and compared it to D.G.'s record. He informed another officer of the incident, told him there was probable cause to arrest D.G., and left the other officer to make the arrest because his own shift was over.

Officer Cuevas testified he was "positive" that D.G. was the driver of the car and S. was the passenger, because he watched them constantly from the time they fled from the vehicle, and S. had shorter hair than D.G.

D.G., his mother, and his sister testified that D.G. was at home that evening. His mother asserted that she had gone to bed after 10:00 p.m. and saw D.G.'s sister braiding D.G.'s hair in their room. D.G. insisted that he did not leave his house that day, did not drive a car that night, and had never driven a car in his life.

The juvenile court noted that it had heard the evidence, observed the demeanor of the witnesses, considered the arguments of counsel, and found Officer Cuevas' testimony credible. The court found the second supplemental petition had been proven beyond a reasonable doubt as to both the felony attempt to elude a police officer while driving recklessly (Veh. Code, § 2800.2, subd. (a)) and resisting arrest (Pen. Code, § 148, subd. (a)(1)).

On January 26, 2009, wardship was continued, and D.G. was ordered to complete a further six month program at the Youth Facility. His maximum confinement time was calculated to be three years, four months.

This appeal followed.

II. *DISCUSSION*

D.G.'s appellate counsel represented in the opening brief in this appeal that she wrote to D.G. at his last known address and advised him of the filing of a *Wende* brief and his opportunity to file his own supplemental brief within 30 days. We have not received any supplemental submission from D.G.

We find no arguable issues on appeal. There are no legal issues that require further briefing.

III. *DISPOSITION*

The judgment is affirmed.

NEEDHAM, J.

We concur.

JONES, P. J.

BRUINIERS, J.*

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.